

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	2:00-cr-177
)	
v.)	
)	
FRED JOHNSON,)	
)	
Defendant.)	

ORDER OF COURT

AND NOW, this 13th day of June, 2008, upon consideration of Fred Johnson's *pro se* MOTION FOR NEW CRACK LAW (Document No. 47) in which Defendant acknowledges his career offender status but seeks a sentence reduction based on the retroactive application of the new amendment to the Sentencing Guidelines for crack cocaine offenses, and the GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION FOR REDUCTION OF SENTENCE PURSUANT TO 18 U.S.C. §3582(c)(2) (Document No. 48) in which the Government accurately and correctly states that on May 10, 2001, Defendant Johnson pled guilty and was therefore convicted of two counts of distribution and possession with intent to distribute heroin and one count of distribution and possession with intent to distribute crack cocaine, but because Johnson had three prior drug trafficking convictions, he was found to be a career offender which increased his total offense level to 29 with a Criminal History Category VI and a guideline range of 151 to 188 months resulting in a sentence of 151 months imposed by Judge Donald E. Ziegler on July 20, 2001. With Johnson having been sentenced as a career offender, his sentence cannot be impacted or affected in any way by the new retroactive amendment to the

Sentencing Guidelines regarding crack cocaine offenses and Defendant's offense level is and must remain the same as it was at the time of his sentencing on July 20, 2001 and Defendant is not eligible for any benefit from said Sentencing Guidelines amendment for crack cocaine offenses.

NOW THEREFORE, Defendant's *pro se* Motion is **DENIED**.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

cc: Troy Rivetti, AUSA
Email: Troy.Rivetti@usdoj.gov

Jay J. Finkelstein, Esquire
Email: jay_finkelstein@fd.org
R. Damien Schorr, Esquire
Email: damienschorr@comcast.net

Fred Johnson - *PRO SE*
06964-068
Federal Correctional Institution
P.O. Box 1000
Cumberland, MD 21501